IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

APPEAL FROM ORDER NO.895 OF 2004
IN
NOTICE OF MOTION NO.2029 OF 2004
IN
S.C. SUIT NO.2476 OF 2004

Hitesh Bal Satam ... Appellant

V/s.

Five Star Cable Network Pvt. Ltd. ... Respondent

Mr.Vishal Thakkar i/b Lalit S. Jain for Appellant
None for Respondent

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **DECEMBER 13, 2004**

P.C.:

. The order challenged has been passed in a Notice of Motion whereby the trial Court has dismissed the Notice of Motion. The trial Court has considered the fact that there was no written agreement for franchise between the parties as claimed by the appellant nor was there any oral understanding as sought to be made out by the plaintiff. The defendant has denied that there was any oral understanding at all in the affidavit filed by it to oppose the Notice of Motion. The plaintiff today is seeking to rely on certain receipts which have been signed on behalf of the defendant showing that some payment had been received as franchise payment. I do no

see any reason to interfere with the finding of the trial Court. The trial Court has considered that prima facie, no case has been made out by the plaintiff.

2. Apart from this, the letter dated 22.4.2004 which has been issued by the defendant to the plaintiff indicates that it had received complaints from several customers in its area of operation that the plaintiff had approached them in an inebriated condition, using filthy language, at odd hours of the night to collect monthly subscription. It appears from this letter that the customers had also sought to bring to the notice of the police the indecent behaviour of the plaintiff and that he was trying to extort increased subscription charges. Whereas the other cable operators in his area were charging not more than Rs.250/-, the plaintiff was seeking to charge Rs.325/- to Rs.350/- per month. Therefore, the plaintiff was suspended by the defendant from being its network operator.

3. I see no reason to interfere with the order of the trial Court. Hence, Appeal from Order dismissed.

4. In view of the Appeal from Order being disposed of, Civil Application Nos.1223 of 2004 and 1277 of 2004 have become infructuous and the same are disposed of accordingly.